IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.CRIMINAL REVISION PETITION NO. 378/2007

(Punjab National Bank V/s Karan Chand Jain & Anr.)

Date of Order : 02/08/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Jagdish Vyas for the petitioner.
Mr. V.R.Mehta, P.P.
Mr. Pradeep Shah for the respondent No.1.

BY THE COURT:-

By the instant criminal revision petition under Section 397 r/w Section 401 Cr.P.C., the complainant petitioner has challenged the order dated 23.3.2007 passed by learned Sessions Judge, Jodhpur in Criminal Appeal NO.98/07 whereby the application filed by accused respondent No.1 under Section 389 (3) Cr.P.C. seeking suspension of sentence awarded to him by the order of Judicial Magistrate No.1, Jodhpur (for short 'the trial court' hereinafter) in Criminal Complaint Case No.467/06 was allowed and sentence awarded by the trial court was suspended during pendency of the appeal.

Heard learned counsel for the parties.

It is contended by learned counsel for the petitioner

that learned Sessions Judge fell in error in suspending the sentence on an appeal filed by the accused respondent against the judgment of conviction and sentence without insisting upon the accused to deposit the fine amount or part of the fine amount.

It is true that in the cases arising out of complaint instituted for the offence under Section 138 of the Negotiable Instruments Act when the trial court imposes a sentence of imprisonment as also fine, then on an appeal while suspending the sentence, a part of fine amount may be directed to be deposited by the accused. But in the instant case, since the learned Sessions Judge has exercised the discretion in not imposing such a condition, in my view, the discretion exercised by the appellate court cannot be said to be contrary to law warranting interference in a revision.

The revision petition is therefore, dismissed. However, learned Sessions Judge is requested to decide the appeal filed by respondent Karan Chand Jain being Criminal Appeal No.98/07 utmost expeditiously preferably within two months from producing the certified copy of order of this Court.

(H.R.PANWAR),J.

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